

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
AT SEATTLE

ROBERT LYNN JACKSON, JR., individually
and as Personal Representative of the Estate of
FOREST EDWIN JACKSON, deceased, and
CATHERINE IRENE JACKSON, individually,

Plaintiffs,

v.

CITY OF MOUNTLAKE TERRACE, a
political subdivision of the STATE OF
WASHINGTON, OFFICER MATT PORTER;
OFFICER BRIAN MOSS; SWEDISH
MEDICAL CENTER, a corporation doing
business in the State of Washington, and
GRETCHEN TOPPING,

Defendants.

No. 2:16-cv-1282

COMPLAINT

JURY DEMAND

Comes Now the Estate of Forest Edwin Jackson, and his parents Robert Jackson, Jr.
("Rob") and Catherine Irene Jackson ("Cathy"), individually, by and through their attorneys
of record, Julie A. Kays and Lincoln C. Beauregard, and avers and alleges as follows:

I. PARTIES

1. At the time of his preventable murder, Forest Edwin Jackson ("Forest") was

1 only 20 years old. Forest is the only son of Rob and Cathy Jackson. Forest had applied to a
2 local community college, and was working in a local pharmacy, following in his Mom's
3 footsteps. Rob and Cathy had a very close and dear relationship with their son, and the family
4 loved spending time together. Rob is the personal representative of Forest's estate and brings
5 all allowable claims on behalf of the Estate as allowed for under Federal law.

6 2. Plaintiff Rob Jackson is the father of Forest. Rob brings all allowable claims
7 on behalf of the Estate as allowed for under Federal law. He misses his son dearly, and there
8 is not a day that goes by that he does not think of his son and the loss of love and
9 companionship of his only boy.

10 3. Plaintiff Cathy Jackson is the mother of Forest. Cathy brings all allowable
11 claims on behalf of the Estate as allowed for under Federal law. Cathy and Forest had a
12 particularly close relationship. She misses her son dearly, and there is not a day that goes by
13 that she does not think of her son

14 4. Defendant City of Mountlake Terrace is a political subdivision of the State of
15 Washington. The City's Police Department carries out law enforcement functions for the City
16 of Mountlake Terrace to include making arrests, involuntary commitment of individuals,
17 investigating crime, and keeping the citizens of Mountlake Terrace safe.

18 5. Officers Matt Porter and Officer Brian Moss are employed by the City of
19 Mountlake Terrace as police officers. Officers Porter and Moss were acting under color of
20 law, within the scope of their employment, and performing their official functions as police
21 officers when they interacted with Toby Saucedo, failed to arrest him for sexual assault, failed
22 to conduct a proper sexual assault investigation, failed to properly involuntarily commit him,
23 failed to put a police hold on Saucedo once involuntarily committed, and failed to book him

1 into jail.

2 6. Defendant Swedish Medical Center is a corporation doing business in
3 Washington State through its various facilities including the Edmonds facility. Defendant
4 Swedish Medical Center agreed to take on the responsibility of accepting, caring for and
5 monitoring of individuals brought into their care on an “involuntary commitment.” When
6 Defendant Swedish Medical Center takes on a government function it makes itself subject to
7 suit as if it were a government entity....

8 7. Defendant Gretchen Topping is a mental health professional employed by
9 Defendant Swedish Medical Center. Defendant Topping was working on the night that
10 Mountlake Terrace Officer Porter sought an involuntary commitment of Toby Saucedo.
11 Defendant Topping failed to follow well established protocols for involuntary commitment
12 procedures, and with deliberate indifference to the rights of others, let the mentally ill, violent
13 and high Saucedo leave the hospital, without contacting law enforcement, and within a span
14 of little over an hour killed Forest Jackson.

15 **II. JURISDICTION AND VENUE**

16 8. This Court has jurisdiction pursuant to 28 U.S.C. Sec. 1331 and 1367. Venue
17 is proper in the Western District of Washington pursuant to 28 U.S.C. Sec. 1391 because
18 Defendant Mountlake Terrace and Swedish Medical Center, and defendant employees, reside
19 in this judicial district and a substantial portion of the events and omissions giving rise to this
20 claim occurred in Snohomish County, within the Western District of Washington.

21 **III. STATEMENT OF FACTS**

22 9. Toby Saucedo was well known to law enforcement for having significant
23 mental health problems, suicidal tendencies, domestic violence, drug abuse and physically

1 assaulting officers.

2 The Everett Herald reported that:

3 In February, Saucedo had barricaded himself inside an apartment after
4 threatening to slit his throat and overdose on pills, court papers said.
5 Police forced the door open and found Saucedo sitting in an office
6 chair with a gun. He pointed the pistol at an officer. Saucedo
eventually dropped the weapon, which turned out to be a BB-gun
made to appear like a Beretta semiautomatic pistol. Saucedo is
charged with assault in connection with that incident.

7 *Everett Herald*, July 19, 2014.

8 10. At 11:43pm on Friday, March 28, 2014, Saucedo called 911 and reported that
9 he had raped a woman, M.L. Officers responded to the 911 call and Saucedo confirmed that
10 he had in fact raped a woman, M.L. The young woman was at the scene, and she confirmed
11 that Saucedo had sexually assaulted her. Rape is a felony in the State of Washington.

12 11. The victim M.L. resided in the same apartment with Forest Jackson. Forest
13 was not present at the time the 911 call reporting the rape was made.

14 12. Instead of investigating the crime, or calling Detectives to the scene to
15 interview the victim and Saucedo, or calling crime scene response teams to the scene to gather
16 evidence, Officers Porter and Moss violated fundamental principles of police sexual assault
17 investigations. Through their inept handling of a rape investigation, the Officers mis-
18 categorized the rape as Felony Voyeurism and even then failed to arrest and book Saucedo
19 into jail.

20 13. Officers Porter and Moss were in over their heads. Instead of arresting
21 Saucedo for Rape, and booking him into jail, Officer Porter filled out an involuntary
22 commitment form in which he listed Saucedo, not as a "suspect" but as "Institutionalized."
23 Porter further documents Saucedo as "unable to care for himself" and curiously, having just

1 confessed to raping a victim does not list him as posing “threats to others.” Despite the fact
 2 that Saucedo admitted to raping a woman, Officer Porter details that there is not a “chargeable
 3 offense,” and indicates that there is NOT a police hold on him.

4 13. Officers Porter and Moss should have booked Saucedo into jail for
 5 investigation of rape. Officers Porter and Moss should have remained at the hospital until it
 6 was clear that Saucedo was going to be kept against his will on an involuntary commitment.
 7 Officer Porter and Moss should have placed a “police hold” on Saucedo in order to ensure that
 8 this dangerous individual with a history of raping women, and assaulting police officers, was
 9 not released back onto the streets. Instead they dropped Saucedo off at the hospital and drove
 10 away. In that regard, police reports indicate the following:

11 04/16/2014 - I met with Gretchen Topping from Swedish Edmonds at approximately 0740 hours.
 12 Also in attendance was Pamela J. Hanlon, who works in the Quality Management Regulatory
 Compliance Department. I asked Topping if there was anything else she could tell me about
 Saucedo and her contact with him.

13 Topping said her contact with him was fairly brief, and that Saucedo immediately told her that he
 14 had lied to the police because he wanted to go to jail. He told her that when he realized he was not
 going to be taken to jail for the alleged rape, he feigned being confused, thinking that would make
 15 the officers take him to jail. Topping also told me that Saucedo asked her if she could have him put
 in jail, to which she told him no. She told me that Saucedo answered all of the standard questions
 16 regarding date, time, current events, etc; he stated he had no desire to harm himself or others and he
 appeared to be lucid - he did not meet any of the criteria for an involuntary hold.

17 Based upon the assorted breaches identified herein, these defendants are liable to the
 18 Plaintiffs.

19 **IV. CAUSE OF ACTION AGAINST SWEDISH MEDICAL CENTER &** 20 **GRETHCHEN TOPPING: SECTION 1983**

21 14. These defendants are liable to the Plaintiffs under Section 1983 for creating the
 22 danger giving rise to these events by failing to properly detain Saucedo when he continued to
 23 display an imminent danger to himself and others. In this regard, these defendants met the

1 test(s) as public actors subject to Section 1983 liability. There are four tests for determining
 2 whether a private party's actions amount to state action for purposes of imposing liability
 3 under § 1983: (1) the public function test; (2) the joint action test; (3) the state compulsion
 4 test; and (4) the governmental nexus test. 42 U.S.C.A. § 1983. Each of these tests
 5 individually and/or collectively is satisfied in this regard in such a way that violated Plaintiffs'
 6 rights under the United State Constitution to include all applicable Amendments including
 7 substantive due process under the Fourteenth Amendment.

8 **IV. CAUSE OF ACTION AGAINST CITY OF MOUNTLAKE TERRACE,
 9 OFFICER PORTER, AND OFFICER MOSS: SECTION 1983**

10 15. These defendants are liable to the Plaintiffs under Section 1983 for creating the
 11 danger giving rise to these events by failing to properly detain Saucedo when he continued to
 12 display an imminent danger to himself and others. These acts, and the assorted failures
 13 identified herein, render these defendants liable to the Plaintiffs for all remedies available
 14 under the law in such a way that violated Plaintiffs' rights under the United State Constitution
 15 to include all applicable Amendments including substantive due process under the Fourteenth
 16 Amendment.

17 **IV. CAUSE OF ACTION AGAINST ALL DEFENDANTS: NEGLIGENCE**

18 16. The actions and omissions described herein caused harm to Plaintiffs in such a
 19 way that was avoidable and preventable. Defendants violated their own internal policies,
 20 practices, and mandates with regard to the creation of the dangers noted herein.

21 **VII. PRAYER FOR RELIEF**

22 WHEREFORE, Plaintiffs, having set forth their causes of action herein against
 23 Defendants, pray for judgment against Defendants, for general (loss of consortium and pre-

1 death pain and suffering) and special damages in amounts as shall be proven at trial, punitive
2 damages, and for reasonable attorneys fees in accordance with law, and otherwise, for
3 Plaintiffs' costs and disbursements herein incurred, and for such other and further relief as the
4 Court may deem just and equitable under the circumstances including appropriate injunctive
5 relief and provided by law.

6 **VIII. DEMAND FOR JURY TRIAL**

7 Pursuant to Federal Rule of Civil Procedure 38(b), Plaintiffs hereby demand a jury for
8 all issues so triable.

9
10 DATED this 15th day of August, 2016.

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